

ORDINANCE NO. 10-13

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA CONSENTING TO THE FIRST RENEWAL REQUESTED BY T-MOBILE SOUTH LLC, FORMERLY KNOWN AS OMNIPPOINT HOLDINGS, INC., OF THE GROUND LEASE FOR A WIRELESS COMMUNICATIONS FACILITY LOCATED AT GOODLET PARK FOR A PERIOD OF FIVE YEARS, COMMENCING ON MARCH 31, 2010 AND ENDING ON MARCH 30 2015, PROVIDING FOR AN ANNUAL RENTAL OF \$38,288.45, WITH A 5% ANNUAL INCREASE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Hialeah, Fla., Ordinance 05-12 (Jan. 30, 2005), the City leased a wireless communications facility, a 100-foot high monopole tower, located at Goodlet Park, for five years to Omnipoint Holdings, Inc., the predecessor in interest to T-Mobile South LLC, with two successive five-year renewals, for an annual base rental of \$30,000, with a 5% annual rental increase; and

WHEREAS, T-Mobile South LLC requests a renewal of the lease for an additional five years as provided in the ground lease, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The Mayor and the City Council of the City of Hialeah, Florida hereby consent to the first renewal requested by T-Mobile South, LLC, formerly known as Omnipoint Holdings, Inc., of the ground lease for a wireless communications facility located at Goodlet Park for a period of five years, commencing on March 31, 2010 and

ending on March 30, 2015, providing for an annual rental of \$38,288.45, with a 5% annual increase.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty described above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 5: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the

Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 23rd day of February, 2010.

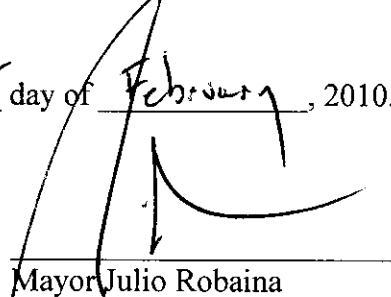
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



Carlos Hernandez
Council President

Attest:

Approved on this 25 day of February, 2010.


Rafael E. Granado, City Clerk
Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

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Ordinance was adopted by a 6-0 vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Garcia-Martinez, Gonzalez, Hernandez voting "Yes", Councilmember Yedra absent.